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In the Matter of)
1991 Satellite Carrier)
Royalty Distribution Proceeding) Docket No. 92-2-91SCD

ORDER

On August 6, 1992 the Copyright Royalty Tribunal issued a Notice (57 F.R. No. 152, pg. 34764) directing all interested parties to submit comments advising as to the status of settlement negotiations and whether a controversy exists with regard to the 1991 satellite carrier royalty fees, and if a declaration of controversy is requested, the proposed recommendations concerning the scheduling and conduct of such proceedings.


On September 15, 1992, the Tribunal received comments from (i) the Joint Network Parties -- Capital Cities/ABC, Inc.; CBS, Inc.; and National Broadcasting Company, Inc.; (ii) Certain Copyright Owners -- Program Suppliers; Joint Sports Claimants; Broadcaster Claimants; American Society of Composers, Authors, and Publishers; Devotional Claimants; Broadcast Music, Inc.,; and SESAC, Inc.; and (iii) Multimedia and the Home Shoppers Network. The Public Broadcasting System had not submitted comments by the deadline.

The Certain Copyright Owners stated that they had reached a tentative agreement among themselves, that negotiations were continuing in search of a universal settlement, and that such negotiations would continue. However, because a universal settlement had not been reached, the Certain Copyright Owners requested that the Tribunal declare a controversy with respect to the Phase I distribution of the 1989, 1990 and 1991 satellite royalty funds, limited to the issue of determining the respective shares of (i) PBS, (ii) the U.S. commercial television networks, and (iii) Certain Copyright Owners. The Certain Copyright Owners further requested the Tribunal to schedule commencement of the consolidated 1989-1991 Satellite Carrier Royalty Distribution Proceeding according to specified dates.

The Joint Network Parties stated that they are seeking in good faith to settle with the other copyright owner parties on issues related to the distribution of royalty fees for 1989-1991, and that such negotiations would continue. However, the Joint Network Parties requested the Tribunal to defer the declaration of a controversy and the setting of a procedural schedule until October 15, 1992 because a novel issue remains to be settled, and the Joint Network Parties are continuing to seek access to Nielsen-generated home satellite viewing data. The Joint Network Parties also urged the Tribunal to order the submission of the direct cases by no earlier than December 4, 1992, if the Tribunal decides to declare that a controversy exists at this point.

Multimedia and Home Shoppers Network endorse the consolidation of the 1991 Satellite proceeding with 1989 and 1990. Since they have not been a participant in the Phase I discussions, they have no objection to the fixing of dates for a Phase I proceeding. Negotiations have not been undertaken for Phase II; therefore, they stated it was premature to conclude that a controversy exists.

Based on the comments of the parties and the Tribunal's policy of encouraging settlements, the Tribunal grants the request of the Joint Network Parties to defer declaring a controversy until October 15, 1992. If the parties do not reach a universal settlement by that date, the Tribunal will declare a controversy effective October 16, 1992 and set the procedural schedule immediately thereafter.


Cindy Daub
Chairman

Dated: September 17, 1992